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Ms. Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445-12th Street, SW
Washington, DC 20554

Re: Comment

In the Matter of the Multi-Association Group (MAG) Plan for the Regulation of Interstate services on Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket 00-256

In the Matter of Federal State Joint Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch:

With this letter are the comments of the Wisconsin State Telecommunications Association (WSTA) in support of the rate-of return company tariff option proposal filed January 31, 2003 which included TDS TELECOM, Inc.

These comments are being filed in response to the Commission's Report and Order and Second Further Notice of Proposed Rulemaking released February 26, 2004.

The Wisconsin State Telecommunications Association (WSTA) is an association representing the legislative, regulatory and industry concerns of telecommunications companies operating in Wisconsin. We represent 83 local incumbent telephone carriers, 31 Internet Service Providers (ISPs) and 10 wireless carriers.

The FCC has requested comments in the Report and Order and Second Further Notice of Proposed Rulemaking in the MAG proceeding on two alternative regulation proposals. The Wisconsin State Telecommunications Association (WSTA) hereby files initial comments in favor of the FCC putting these proposals into effect as quickly as possible.

Mid-size Rate of Return carriers, such as those that have filed these proposals with the FCC, do not currently have a viable interstate alternative regulation option. The option that is currently available to large companies, the CALLS plan, was designed specifically for the initial signatories to the plan, and has no mechanism for accommodating additional carriers. Thus, the FCC tentatively concludes[1] that the CALLS plan should not be extended beyond the carriers that are currently under it. And even if the FCC did open up the plan to mid-size carriers, it is not at all clear that this plan would be one that would fit mid-size company circumstances. In addition, the option currently available to Tier 3 companies[2] under Part 61.39 of the FCC's rules is only available to study areas of less than 50,000 lines. Most mid-size companies have study areas under 50,000 lines, but fall above the Tier 3 cutoff, and thus can not utilize this option. The Rate-of-Return Carrier Tariff Option put forth by TDS, Madison River and Alltel, which is built on the 61.39 tariff option, would open up this "small company" form of incentive regulation to larger rate-of-return companies.

Thus, mid-size rate-of-return carriers, without the options put forth in the Second Further Notice, find themselves in the unique position of being the only incumbent local exchange carriers that do not have a viable interstate incentive option. The Rate-of-Return Carrier Tariff Option put forth by TDS, Madison River and Alltel, as well as the CenturyTel proposal, is designed to remedy this deficiency.

Many states, such as Wisconsin, have various alternative regulatory options that do not strictly rely on rate-of-return. Mid-size companies, such as TDS and Century, have already availed themselves of these options in Wisconsin, and in other states in which they operate. It makes good sense for these companies also to be able to have alternative regulation available on the interstate side. With an interstate option, they will be able to operate their companies under the same incentives in both jurisdictions, instead of rate of return in one, and alternative regulation in the other.

The FCC tentatively concludes that these plans should not have an "all or nothing" rule applied to them, allowing carriers to elect them on an individual study area basis.[3] WSTA supports this conclusion. Any rules that force an entire holding company to make decisions as if all of its study areas were under the same circumstances would negate the efficacy of such plans. Both TDS and Century serve in multiple states, and have study areas with vastly different characteristics. Different regulatory regimes should be allowed for the individual companies based on their individual characteristics.

The FCC also raises the issue of pooling, and whether or not a holding company should have to remove all of its companies from the NECA pool in order to elect alternate regulation for any of its study areas.[4] On the face of it, this rule makes no sense. Any abuse that a holding company could perform to take advantage of having multiple study areas is at least as detectable *within* the pool, if not more so, than with study areas that are outside of the pool. In addition, any cost shifting or changing of cost allocations would be easily detectable. Thus, the issue of being in or out of the pool should not matter for

[1] Paragraph 93
[2] Tier 3 is defined as having less than $40 million of revenue at the consolidated level. Mid-size companies typically fit into this category.
[3] Paragraph 86
[4] Paragraph 91

these alternative regulatory options. In addition, requiring a carrier to take all of its study areas out of the pool prior to electing one of these options could actually be harmful to the NECA pool, as it would lessen the base of lines and minutes in the pool, and thus increase the volatility of the rates and earnings.

The WSTA urges the FCC to put these plans into effect as expeditiously as possible. Given the fact that the FCC has had an intercarrier compensation docket open since 2001, and that in that docket has put out plans which would lower or eliminate interstate access rates, it is high time for the FCC to move forward on these proposals before there is no intercarrier compensation left to which these plans would apply.

WSTA supports the concepts in the rate-of return company tariff option proposal and wish to emphasize that it is important for small and midsize companies to have these kinds of regulatory options available to them.

The above comments are being filed electronically in accordance with the Commission's rules. You may direct any questions to me at 608.833.8866 EXT 14 or Nick Lester at 608.833.8866 EXT 23.

Sincerely,

William C. Esbeck
Executive Director

Cc: Qualex International (via email)